

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

LANA M. HIGGS,

Plaintiff,

v.

CAROLYN W. COLVIN,
Commissioner of Social Security¹,

Defendant.

No. 2:10-CV-00294-JTR

ORDER GRANTING STIPULATED
MOTION TO REMAND
PURSUANT TO SENTENCE SIX
OF 42 U.S.C. § 405(g)

BEFORE THE COURT is the parties' stipulated Motion for Remand of the above-captioned matter to the Commissioner for additional administrative proceedings, including a *de novo* hearing, pursuant to sentence six of 42 U.S.C. § 405(g). ECF No. 20. Attorney Jeffrey Schwab represents Plaintiff; Special Assistant United States Attorney Summer Stinson represents Defendant. The parties have consented to proceed before a magistrate judge. ECF No. 6.

¹As of February 14, 2013, Carolyn W. Colvin succeeded Michael J. Astrue as Acting Commissioner of Social Security. Pursuant to FED R. CIV. P. 25(d), Commissioner Carolyn W. Colvin is substituted as the defendant, and this lawsuit proceeds without further action by the parties. 42 U.S.C. § 405(g).

1 Plaintiff filed her complaint in this matter on September 2, 2010. ECF No.
2 1. On December 20, 2010, this case was remanded pursuant to sentence six of 42
3 U.S.C. § 405(g) because it was unclear whether Plaintiff timely requested a hearing
4 as the notice of denial upon reconsideration was undated. ECF No. 15. On
5 November 23, 2011, an administrative hearing on Plaintiff's applications for
6 disability insurance benefits and supplemental security income benefits was held.
7 ECF No. 20 at 2. The parties agree that a sentence six remand is again necessary
8 because the recording of the November 23, 2011 administrative hearing is partially
9 or totally blank. ECF No. 20 at 2. Defendant has not filed an answer to the
10 complaint in this case.

11 Pursuant to sentence six of 42 U.S.C. § 405(g), the Court may remand the
12 case to the Commissioner for good cause shown before an answer is filed and
13 retain jurisdiction. *See Melkonyan v. Sullivan*, 501 U.S. 89, 98, 101 n.2 (1991).
14 After considering the file and proposed order, the Court finds good cause exists for
15 the matter to be remanded for a *de novo* hearing and a new ALJ decision.
16 Accordingly,

17 **IT IS ORDERED:**

18 1. The parties' Stipulated Motion For Remand, **ECF No. 20**, is
19 **GRANTED**.

20 2. The above-captioned case is **REVERSED** and **REMANDED** to the
21 Commissioner of Social Security for further administrative proceedings, including
22 a *de novo* hearing, pursuant to sentence six of 42 U.S.C. § 405(g). On remand, the
23 administrative law judge (ALJ) shall offer Plaintiff an opportunity for a new
24 hearing, further update the medical record as deemed necessary, and issue a new
25 decision.

26 3. The Court shall maintain jurisdiction of this action pursuant to 42
27 U.S.C. § 405(g). If the outcome is still unfavorable to Plaintiff, she may seek
28 judicial review by reinstating this case rather than by filing a new complaint.

1 The District Court Executive is directed to enter this Order, forward copies
2 to counsel, and **ADMINISTRATIVELY CLOSE THE FILE.**

3 DATED January 15, 2014.



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A handwritten signature in dark ink, consisting of stylized, overlapping loops and strokes, representing the name John T. Rodgers.

JOHN T. RODGERS
UNITED STATES MAGISTRATE JUDGE